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**SECRETARIAT
OF
THE ODISHA LEGISLATIVE ASSEMBLY**

NOTIFICATION

The 11th September, 2015

No. 9696/L.A.— The following Bill which has been introduced in the Odisha Legislative Assembly on the 28th August, 2015 is herewith published under rule-68 of the Rules of Procedure and Conduct of Business in the Odisha Legislative Assembly for general information.

**THE ODISHA URBAN AREAS (CONSERVATION AND DEVELOPMENT) OF
GREENERY BILL, 2015**

(By SRI RANENDRA PRATAP SWAIN, MLA)

**A
BILL**

To ensure better provision for development of greenery in the urban areas in the State of Odisha with an emphasis on conservation and development and ensuring effective institutional mechanisms for the implementation and for matters connected therewith or incidental thereto.

Be it enacted by the Legislature of the State of Odisha in the Sixty-sixth year of Republic of India as follows, namely:—

**CHAPTER I
PRELIMINARY**

Short title,
extent and
commencement.

- 1.** (1) This Act may be called The Odisha Urban Areas (Conservation and Development) of Greenery Act, 2015.
(2) It extends to the whole of the State of Odisha.
(3) It shall come into force in any urban area or part thereof on such date as the State Government may promulgate by notification in the Official Gazette or different dates as specified for different urban areas or parts thereof.

Definitions.

2. In this Act, unless the context otherwise requires,-
- (a) “State Government” means Government of Odisha;
 - (b) “Relevant Act” means the Act under which the Urban Local Authority concerned is constituted.
 - (c) “Urban Local Authority” in respect of any area, means a Municipal Corporation, a Municipality, a Notified Area Council, Special Planning Authority or Development Authority as the case may be, constituted having jurisdiction over that area.
 - (d) “Urban Area” means a Municipal Corporation or Municipality or Notified Area Council or Development Authority or Special Planning Authority area.
 - (e) “Urban Green” means the areas of agriculture land, forest land if any, tree groves, parks, trees in avenues, in public land as well as private or institutional property within urban area.
 - (f) “Tree” means any perennial woody plant whether in the seedling or sapling stage or fully grown stage and includes shrubs whose branches spring from the ground level.
 - (g) “Prescribed” means prescribed by rules made under this Act.
 - (h) words and expressions used in this Act, but not defined herein, shall have the meaning assigned to them in the relevant Act.

CHAPTER II

ESTABLISHMENT AND PROCEDURE OF GREENERY AUTHORITY

Establishment
of Greenery
Authority.

3. (1) As soon as may be after this Act is brought into force in any urban area the Urban Local Authority concerned shall constitute a Greenery Authority, consisting of the Chairman and other not less than three and not more than nine persons from amongst its members, appointed in such manner and for such period as that authority may determine:
- Provided that, where an administrator by whatever name called is appointed for Urban Local Body, he shall during the period of his/her appointment, act as the Greenery Authority and exercise all the powers and perform all the duties of the Greenery Authority.
- (2) In the case of an Urban Local Authority specified in column (1) of the Table below the Chairman of its Greenery Authority shall be the person specified against it in column (2) thereof.

Sl. No.	Name of the Urban Local Authority	Chairman of its Greenery Authority
1.	Municipal Corporation	The Commissioner of the Corporation.
2.	Municipality	The Executive Officer
3.	Notified Area Council	The Executive Officer
4.	Development Authority	The Vice Chairman

(3) Chairman of every Greenery Authority may nominate one representative of non-government organisation, who have special knowledge or practical experience in the field of planting and preservation of trees, landscape development, as member of the Greenery Authority for such period as may be prescribed.

(4) Chairman of every Greenery Authority may nominate one senior citizen of the area, who have special knowledge or practical experience in the field of planting and preservation of trees, landscape development, as member of the Greenery Authority for such period as may be prescribed.

(5) Chairman of Green Authority may nominate one forest official not below the rank of Range Officer as member of the Greenery Authority.

Meetings of
Greenery
Authority.

4. (1) The Greenery Authority shall meet at least once in every two months at such place and time as the Chairman may decide.
- (2) The quorum to constitute a meeting of the Greenery Authority shall be one-third of the total number of its members including the nominated members, if any.
- (3) The nominated members shall have the right to vote at a meeting of the Greenery Authority.
- (4) Save as otherwise provided by or under this Act, the rules of procedure for the meeting of the urban authority shall *mutatis mutandis* apply to the meetings of the Greenery Authority.

CHAPTER III

OFFICERS AND MEMBERS

Appointment of
Greenery
Officer.

5. (1) As soon as this Act is brought into force in any urban area, the Urban Local Authority concerned shall appoint one or more of its officers as Greenery Officers for the purposes of this Act.
- (2) Health Officer and Municipal Engineer of the local authority concerned shall be the Greenery Officers and the Urban Local Authority may appoint one or more of its other officers as Greenery Officers.
- (3) Every Greenery Officer shall exercise jurisdiction over the whole or such part of the urban area as the Greenery Authority may from time to time, determine.

Appointment
of other
officers.

6. The Urban Local Authority may from time to time, appoint such other officers as it considers necessary for smooth functioning of the Greenery Authority with conditions of appointment and powers and duties as may be determined by the Urban Local Authority.

CHAPTER IV

DUTIES OF THE GREENERY AUTHORITY

Duties of
Greenery
Authority.

7. Notwithstanding anything contained in the relevant Act or in any other law for the time being in force, and subject to any special or general direction given by the State Government, the Greenery Authority shall be responsible for—
- (a) protection and preservation of all greenery in all lands within its jurisdiction;
 - (b) carrying out a census of the existing trees with species in all lands within its jurisdiction;
 - (c) prescribing standards specifying the number and types of trees in public land and in avenue locations and which shall be planted therein;
 - (d) development and maintenance of nurseries for the supply of seeds, saplings and trees to citizens who desire to plant new trees or to replace trees which have been felled with the previous permission of the Greenery Officer or involuntarily uprooted.
 - (e) transplanting of trees necessitated by construction of new roads or widening of existing roads or for safeguarding danger to life or property;
 - (f) provide necessary advice and technical assistance to any person seeking such advice or assistance in any manner connected with planting, protection or preservation of trees and shrubs.
 - (g) planting and maintaining such number of trees as it considers necessary, according to the prescribed standards, along the roads including feeder roads, in public parks and gardens, open spaces or public spaces;
 - (h) undertaking any other schemes or measures for achieving the objects of this Act.

CHAPTER V

RESTRICTION ON FELLING OF TREES AND LIABILITY FOR MAINTAINING GREENERY WITH PLANTING AND PRESERVATION OF TREES

Restriction
on felling of
trees.

8. (1) On and after the date on which this Act is brought into force in any urban area, notwithstanding any custom, usage, contract or law for the time being in force, no person shall cause tree felling in any land, whether of his ownership or otherwise, situated within that urban area, except with the previous permission of the Greenery Officer.
- (2) If any person, including an officer of the Urban Local Authority or an officer of the State Government/Central Government, proposes to fell a tree, then shall apply in writing to the Greenery Authority for permission in that behalf. The application shall be accompanied by the description of the tree and a site plan indicating the position of the tree to be felled and the reasons thereof.

(3) On receipt of such application, the Greenery Authority shall cause an inquiry within fifteen days through its Greenery Officer regarding the genuineness of such tree felling and when convinced, thereafter the Greenery Authority may give permission with or without conditions or refuse it, within a period of forty-five days from the date of receipt of application.

(4) A report of permission granted by the Greenery Authority for felling trees shall be submitted at least once in six months to the concerned Urban Local Authority in whose jurisdiction the Greenery Authority is functioning.

(5) If the applicant does not receive any decision from the Greenery Authority within sixty days from the date of receipt of application by the Authority or if the receipt of the application has been duly acknowledged by the Authority, within this period, from the date of acknowledgement of the receipt of the application, the permission applied for shall be deemed to have been granted.

(6) During grant of permission for tree felling is granted by the Greenery Authority, a condition to plant another tree of the same or other suitable species by the applicant may be stipulated.

Power to give direction for planting of adequate number of trees.

9. (1) If, in the opinion of the Greenery Officer, the number of trees in any land is not adequate to the standards prescribed under section (c) of Section 7, the Greenery Officer may after giving a reasonable opportunity to the owner or occupier of the land or premises of being heard, by order direct to plant such trees or additional trees and at such places in the land as may be specified in the order.

(2) When an order is passed under sub-section (1), the owner or occupier of the land shall comply with the order within hundred-twenty days from the receipt thereof.

Power to direct planting of a tree in place of fallen or destroyed tree.

10. (1) Where any tree is fallen or destroyed by wind, fire, lightening or torrential rain, the Greenery Officer may, *suo motu* or on receipt of information, after holding such inquiry as deem fit and giving a reasonable opportunity to the owner or occupier to plant one or more trees of the local species at the same or other suitable place as may be specified in the order.

(2) Where an order is made under sub-section (1), the owner or occupier of the land shall comply with the order within one hundred and twenty days from the receipt thereof.

Responsibility for preservation of trees and compliance reporting.

11. (1) Where an order is made under sections 8, 9 or 10 subject to the provisions of Section 12, it shall be the duty of the owner or occupier of the land or who is directed to plant a tree to see that the tree grows properly and is well preserved and shall give a report to the Greenery Officer once in six months about the conditions of such tree or trees for a period of three years. It shall

also be duty of such owner or occupier to preserve all other trees existing on the land on the date of coming into force of this Act in the urban area in which the land is situated.

(2) Under sections 8, 9 or 10, the Greenery Officer would charge a security amount as may be prescribed, to the owner or occupier of the land for ensuring proper compliance with the order. The said amount would be returned to the depositor if the compliance would be found satisfactory after three years of deposit.

Forfeiture of
deposit and
recovery of
expenditure for
non-compliance.

12. Where the owner or occupier of any land fails to comply with any order made under sections 8, 9, or 10, the Greenery Authority or the Greenery Officers as the case may be, may after giving a reasonable opportunity to such owner or occupier of being heard forfeit the deposit, in full or in part to the Greenery Authority and without prejudice to any other action which may be taken against the defaulter under this Act and recover the expenditure incurred from the owner or the occupier, as the case may be. For the purpose of recovery of the amount of such expenditure, the Greenery Authority or Greenery Officer shall have the same powers as are available to the Urban Local Authority for the purpose of recovery of the arrears of a property tax or where such tax is not levied, for the purpose of recovery of arrear dues levied by the Urban Local Authority under the relevant Act.

Appeals.

13. (1) Where any decision is given or order is made under section 9 or 10 by the Greenery Officer, an appeal shall lie to the Greenery Authority.

(2) The appeal shall be made within fifteen days from the date the decision is communicated to, or the order is received by, the owner or occupier of the land and shall be accompanied by a fee of Rupees fifty only.

(3) The Greenery Authority shall, as far as possible decide the appeal within forty-five days from the date of its receipt, after giving a reasonable opportunity to the appellant of being heard. The decision of the Greenery Authority shall be final, and shall not be questioned in any Court of Law:

Provided that, where an appeal is made in time, the period for compliance, specified in the order of the Greenery Officer appealed against, shall be reckoned from the date on which the appeal is decided against the appellant and where the appeal is allowed, the fee of fifty rupees paid with the appeal shall be refunded to the appellant.

CHAPTER VI

FINANCE, BUDGET AND ACCOUNTS

Fund.

14. Notwithstanding anything contained in the relevant law or any other law for the time being in force, the Urban Local Authority shall create a separate fund to be called the Greenery Authority

Fund, to which shall be credited all moneys received by the Greenery authority including—

- (a) a contribution by the Urban Local Authority from its income from such taxes as may be prescribed;
- (b) any grants made by the State Government to the Greenery Authority;
- (c) any money received by the Greenery Authority as donations from any individuals, or corporate bodies or institutions;
- (d) any other money received under the Act.

Budget.

- 15.** Every Greenery Authority shall, on or before 30th day of November every year, prepare in such form as the Urban Local Authority may prescribe, an annual budget estimate in respect of the ensuing financial year of the estimated income and expenditure of the Greenery Authority and shall, submit it to the Urban Local Authority for approval and inclusion in the budget estimate of that authority.

Accounts and audit.

- 16.** The procedure applicable under the relevant law for maintenance and audit of accounts of the Urban Local Authority shall *mutatis mutandis* apply to the maintenance and audit of the accounts of every Greenery Authority.

CHAPTER VIII MISCELLANEOUS

Permission for development of land to be given with approval of Greenery Officer.

- 17.** Notwithstanding anything contained in the relevant law or any other law for the time being in force—
- (a) any authority or officer of the Urban Local Authority, who is empowered to give any permission for development of land, shall not give any permission, except with the approval of and subject to the conditions, if any, imposed by the Greenery Officer in regard to the preservation or plantation of trees on such land;
 - (b) no completion or occupation certificate in respect of any building shall be issued under the relevant law unless the Authority Competent to issue such certificate is satisfied that the conditions subject to which permission for development of the land as aforesaid was given have been complied with.

Power to give directions.

- 18.** The Green Authority may, from time to time, give to the Green Officer and other Officers subordinate to him such general or special directions as it thinks fit as to the policy to be followed by them in the discharge of their functions and for carrying out effectively the purposes of this Act, and such officers shall comply with such directions.

Prevention of felling and destruction of trees.

- 19.** The Greenery Officer or any other officer of the Urban Local Authority authorized by such authority in this behalf or any police officer may take such steps and use such force as may be reasonable necessary to prevent the felling or destruction of any tree or greenery or for protection of tree or greenery.

Power of entry.	<p>20. It shall be lawful by the Greenery Officer or any officer authorized by Greenery Officer or by the Greenery Authority in this behalf, to enter, with such assistance as may deem necessary, upon any public premises for the purposes of proper enforcement of this Act and for that purpose carry out such inspection and take such steps and use such force as may be expedient.</p>
Offence and penalty.	<p>21. Whoever acts in contravention of the provisions of the Act or without reasonable excuse fails to comply with any order issued or conditions imposed by the Greenery Officer or the Greenery Authority or voluntarily obstructs any member of the Greenery Authority or the Greenery Officer or any officers in the discharge of their functions under this Act, shall, on conviction, be punished with fine of not less than one thousand rupees which may extend to five thousand rupees for every offence.</p> <p>Damaging greenery including felling of trees without the permission of the Greenery Authority shall constitute a separate offence.</p>
Power to make rules.	<p>22. (1) The State Government may, subject to the condition of previous publication and by notification in the Official Gazette make rules for carrying out the purposes of this Act.</p> <p>(2) All rules made under this Act, shall as soon as may be after they are made, be laid before the State Legislature for a total period of fourteen days which may be comprised in one or more sessions. The State Legislature makes modifications, if any, therein the rules shall thereafter have effect only in such modified form. So, however that such modifications shall be without prejudice to the validity of anything previously done under that rule.</p>
Overriding effect of the Act.	<p>23. The provision of this Act shall be in addition to and not in derogation of any other law, for the time being in-force.</p>

STATEMENTS OF OBJECTS AND REASONS

Trees and forest covers are critical component of Urban and Peri-urban environment, which moderate microclimate, enable ground water recharge, provide shed and conserve local biodiversity, improve quality of life for city dwellers by providing recreational avenues.

Trees as an important component of urban infrastructure provide significant amelioration against urban heat island effects and flooding due to storm water. By taking the greenery and sustainable environment concerns more seriously, there will be hope for a better quality of life in the future regardless the population density.

Green spaces in urban areas serve as insurance against natural disasters. Trees on road sides serve as a shelter/resting place providing relief to the poor in harsh climate.

Greenery serves as natural air conditioners through the process of transpiration, when water from soil is exuded into the air, which produces a cooling effect. It has been scientifically established that, as a city becomes more and more urbanised, more and more forests and green areas are cleared, the predominance of concrete causes “heat island” effect, where ambient temperature is higher than the surrounding green areas. Thus urbanites become heavily dependent on artificial air conditioners to cool down, but this is extremely costly and adds to the pollution in the air. To reduce such costly expenditure and pollution we should let plants do the air conditioning for us.

Trees have a greater cooling capacity as they have a greater abundance of leaves which are involved in the transpiration process. Urban greening is different from normal plantation/ a forestation activity. Maintaining tree architecture, shapes and balance for health of the plants as well as aesthetics is important. Plants in urban areas face more hydrological stress, higher temperatures and pollutants.

There are established study reports that the cognitive development of the children is better in schools with more green spaces around whereas in schools with less greenery the cognitive attention and working memory is slower.

There is a need to have professional and scientific approach for promoting conservation, development and management of urban greens and trees in urban areas. This requires a legal framework so that urban greens and trees in urban areas are institutionalized.

Therefore it has been considered to provide an appropriate legislative frame work for promoting conservation, development and management of urban greens and trees in urban areas. Accordingly it has been decided to undertake a legislation which envisages for promotion conservation, development of urban greens and trees in urban areas and taking cognizance of the offences, penalties have been proposed for violation of the provisions in order to prevent short term and long term environmental risks and tackling heat island effect including heat stroke due to indiscriminate decrease of urban greenery and to curb the menace.

The aim is to bring about noticeable improvements in urban greenery, to enhance existing greened areas, and to enhance opportunities of quality greening during the planning and development of development work in urban areas.

It is a fact that green spaces are not preserved in the urbanised areas, where private developers tend to have little statutory obligation or willingness to provide public open spaces, often results in poor protection or obliteration of natural vegetation in new developments and redevelopment schemes.

A city generously endowed with high-quality greenery is a necessary ingredient of environmental quality and quality of life. Therefore, preservation and introduction of greenery in urban infrastructure is seen as a moral necessary under urban management and design not only for the environment, but also for the population wellbeing as a whole. These can only be done through collective cooperation by the Government, both private and private developers, as well as high supports from the general public and the society.

By taking this greenery and sustainable environment concerns more seriously, there will be hope for a better quality of life in the future regardless the population density.

This Bill seeks to achieve the above objectives.

RANENDRA PRATAP SWAIN

Member-in-Charge

A.K. SARANGI

SECRETARY

ODISHA LEGISLATIVE ASSEMBLY